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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th June, 2020/Ashadha 5, 1942 (Saka)

THE BANKING REGULATION (AMENDMENT) ORDINANCE, 2020

No. 12 OF 2020

Promulgated by the President in the Seventy-first Year
of the Republic of India.

An Ordinance further to amend the Banking
Regulation Act, 1949.

WHEREAS the Banking Regulation (Amendment)
Bill, 2020 has been introduced in the House of the People
on the 3rd day of March, 2020;

AND WHEREAS the aforesaid Bill could not be
taken up for consideration and passing in the House of
the People;

AND WHEREAS Parliament is not in session and the
President is satisfied that circumstances exist which
render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers
conferred by clause (1) of article 123 of the Constitution,
the President is pleased to promulgate the following
Ordinance:—

1. (1) This Ordinance may be called the Banking Regulation (Amendment) Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once, except section 4, which shall come into force on such date as the Central Government may by notification, appoint:

Provided that different dates may be appointed for state co-operative banks, central co-operative banks and primary co-operative banks and any reference in any such provision to the commencement of this Ordinance shall be construed as a reference to the coming into force of that provision.

10 of 1949. 2. In the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for section 3, the following section shall be substituted, namely:— Substitution of new section for section 3.

“3. Notwithstanding anything contained in the National Bank for Agriculture and Rural Development Act, 1981, this Act shall not apply to— Act not to apply to certain co-operative societies.

(a) a primary agricultural credit society; or

(b) a co-operative society whose primary object and principal business is providing of long-term finance for agricultural development,

if such society does not use as part of its name, or in connection with its business, the words “bank”, “banker” or “banking” and does not act as drawee of cheques.”.

3. In section 45 of the principal Act,—

Amendment of section 45.

(i) in the marginal heading, for the word “reconstitution”, the word “reconstruction” shall be substituted;

(ii) in sub-section (3), after the words “other creditors”, the words “or grant any loans or advances or make investments in any credit instruments” shall be inserted;

(iii) in sub-section (4), after the words “During the period of moratorium”, the words “or at any other time” shall be inserted;

(iv) in sub-section (5), in clauses (e), (i) and (j), for the words "date of the order of moratorium", the words "reconstruction or amalgamation" shall be substituted;

(v) in sub-section (6), in clause (a), for the word "amalgamation", the words "reconstruction or amalgamation" shall be substituted;

(vi) in sub-section (15), the words "or a subsidiary bank" shall be omitted.

4. In section 56 of the principal Act,—

Amendment of
section 56.

(A) in the opening portion, for the words "The provisions of this Act, as in force for the time being," the words "Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act" shall be substituted;

(B) in clause (a), after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

'(iii) references to "memorandum of association" or "articles of association" shall be construed as references to bye-laws;

1 of 1956. (iv) references to the provisions of the Companies Act, 1956, except in Part III and Part IIIA, shall be construed as references to the corresponding provisions, if any, of the law under which a co-operative bank is registered;

(v) references to "Registrar" or "Registrar of Companies" shall be construed as references to "Central Registrar" or "Registrar of Co-operative Societies", as the case may be, under the law under which a co-operative bank is registered;';

(C) clause (d) shall be omitted;

(D) in clause (e), sub-clauses (i) and (iii) shall be omitted;

(E) in clause (f), in section 7 as so substituted, in sub-section (2),-

(I) in clause (b), the words “or co-operative land mortgage banks” shall be omitted;

(II) in clause (c), in sub-clause (ii), the words “or a co-operative land mortgage bank” shall be omitted;

(F) clauses (fi), (fii) and (g) shall be omitted;

(G) for clause (i), the following clause shall be substituted, namely:—

‘(i) for section 12, the following section shall be substituted, namely:—

Issue and
regulation of
paid-up share
capital and
securities by co-
operative banks.

“12. (1) A co-operative bank may, with the prior approval of the Reserve Bank, issue, by way of public issue or private placement,—

(i) equity shares or preference shares or special shares, on face value or at premium; and

(ii) unsecured debentures or bonds or other like securities with initial or original maturity of not less than ten years,

to any member of such co-operative bank or any other person residing within its area of operation, subject to such conditions and ceiling, limit or restriction on its issue or subscription or transfer, as may be specified by the Reserve Bank in this behalf.

(2) Save as otherwise provided in this Act,—

(i) no person shall be entitled to demand payment towards surrender of shares issued to him by a co-operative bank; and

(ii) a co-operative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this behalf.”;

(H) clauses (l), (n) and (p) shall be omitted;

(I) in clause (q), sub-clauses (ii) and (iv) shall be omitted;

(J) clauses (r), (ria) and (sa) shall be omitted;

(K) in clause (t), sub-clause (i) shall be omitted;

(L) clauses (u), (v), (x), (y), (z) and (za) shall be omitted;

(M) in clause (zaa),-

(a) in section 36AAA as so inserted,-

(i) for the words “multi-State co-operative bank”, wherever they occur, the words “co-operative bank” shall be substituted;

(ii) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that in the case of a co-operative bank registered with the Registrar of Co-operative Societies of a State, the Reserve Bank shall issue such order in consultation with the concerned State Government seeking its comments, if any, within such period as the Reserve Bank may specify.”;

(iii) after sub-section (9), the following sub-section shall be inserted, namely:-

“(10) The provisions of section 36ACA shall not apply to a co-operative bank.”;

(b) section 36AAB as so inserted shall be omitted;

(N) for clause (zb), the following clause shall be substituted, namely:-

“(zb) Part IIC shall be omitted.”;

(O) in clause (zc), sub-clause (i) shall be omitted;

(P) clauses (zd) and (zf) shall be omitted;

(Q) for clause (zg), the following clause shall be substituted, namely:-

“(zg) in section 49B, references to “Central Government” shall be construed as references to “Central Registrar” or “Registrar of Co-operative Societies”, as the case may be, under the law under which a co-operative bank is registered.”;

(R) clause (zh) shall be omitted;

(S) for clause (zj), the following clause shall be substituted, namely:—

‘(zj) after section 53, the following section shall be inserted, namely:—

Power to exempt
co-operative
banks in certain
cases.

“53A. Notwithstanding anything contained in any other provisions of this Act, the Reserve Bank may, from time to time, on being satisfied that it is necessary so to do, declare, by notification in the Official Gazette, that the provisions of item (iii) of clause (b) of sub-section (1) and sub-section (2), of section 10, clause (a) of sub-section (2) of section 10A, sub-section (1A) of section 10B and clause (b) of sub-section (1) of section 35B of this Act shall not apply to a co-operative bank or class of co-operative banks, either generally or for such period as may be specified therein, subject to such conditions, limitations or restrictions as it may think fit to impose.”.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.